

**FACE SHEET**

Contract Number: <insert number>

**Washington Tree Fruit Research Commission**

<b>1. CONTRACTOR</b> <Insert legal name> <Insert mailing address> <Insert physical address> <Insert location>		<b>2. CONTRACTOR Doing Business As (optional)</b> <Insert DBA name> <Insert DBA mailing address> <Insert DBA physical address> <Insert DBA location>	
<b>3. CONTRACTOR Representative</b> <Insert name> <Insert title> <Insert phone> <Insert FAX> <Insert e-mail>		<b>4. COMMISSION Representative</b> <Insert name>                      <Insert mailing address> <Insert title>                      <Insert physical address> <Insert phone>                      <Insert location> <Insert FAX> <Insert e-mail>	
<b>5. Contract Amount</b> <Insert \$ amount>	<b>6. Funding Source</b>	<b>7. Start Date</b> Date of Last Signature	<b>8. End Date</b> <Insert date>
<b>10. Tax ID #</b> <Insert number>	<b>11. SWV #</b> <Insert number>	<b>12. UBI #</b> <Insert number>	<b>13. DUNS #</b> <Insert number>
<b>14. Contract Purpose</b> The COMMISSION is providing funding to CONTRACTOR to conduct research regarding [ <b>brief description of research purpose</b> ] as further detailed in the Scope of Work, Attachment A.			
The parties acknowledge and accept the terms of this Contract and have executed this Contract to take effect on the date referenced above. The rights and obligations of the parties are governed by this Contract, including the Special Terms and Conditions, General Terms and Conditions, Attachment A—Scope of Work, and Attachment B—Budget.			
<b>FOR CONTRACTOR</b>  _____ <insert name>, <insert title>  _____ Date Signed:  _____		<b>FOR COMMISSION</b>  _____ <insert name>, <insert title>  _____ Date Signed:  _____	

## **SPECIAL TERMS AND CONDITIONS**

### **1. CONTRACT MANAGEMENT AND COMMUNICATIONS**

Communication regarding Contract performance is delegated by each party to its Contract Representative. Either party may change its Representative by giving prior express notice to the other party. Either party may identify on an as-needed basis an alternate Representative to serve during the stated temporary absence of its primary Representative.

Notices between the parties regarding Contract performance must be by written communication between the Representatives. Written communication includes email but not voice mail. Notices are presumed received by the other party's Representative upon evidence of delivery between the hours of 8:00 am to 5:00 pm except for state holidays and weekends.

### **2. COMPENSATION**

COMMISSION shall pay an amount not to exceed \$ \_\_\_\_\_ for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Work and Budget, Attachments A and B..

#### **EXPENSES**

If identified as reimbursable in the Scope of Work or Budget, CONTRACTOR may receive reimbursement for travel and other expenses. The maximum amount to be paid to the CONTRACTOR for expenses shall not exceed \$ \_\_\_\_\_, which amount is included in the Contract total above.

If travel by CONTRACTOR is identified in the Scope of Work or Budget, such expenses may include airfare (economy or coach class only), other transportation expenses, and lodging and subsistence necessary during periods of required travel. CONTRACTOR shall receive compensation for travel expenses at current state travel reimbursement rates.

### **3. BILLING PROCEDURES AND PAYMENT**

COMMISSION will pay CONTRACTOR upon acceptance of properly completed invoices submitted to the COMMISSION Representative. Invoices may not be submitted more frequently than monthly. The invoices must describe and document, to the COMMISSION'S satisfaction, a description of the work performed, and the progress of the project under the Scope of Work. Each invoice must include the Contract Number. If expenses are invoiced, CONTRACTOR must provide a detailed breakdown of each type. A receipt must accompany any single expense in the amount of \$50.00 or more to qualify for reimbursement.

Payments are timely if made by the COMMISSION within thirty (30) calendar days after receipt of properly completed invoices. Payment will be sent to the address designated by the CONTRACTOR if other than to the CONTRACTOR Representative.

No payments in advance of or in anticipation of performance to be provided under the Scope of Work will be made by the COMMISSION.

#### **Duplication of Billed Costs**

The CONTRACTOR may not bill COMMISSION for work performed under this Contract, and COMMISSION will not pay the CONTRACTOR, if the CONTRACTOR is entitled to payment or has been or will be paid by any other source, including grants, for that service.

#### **Disallowed Costs**

The CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its SUBCONTRACTORS.

### **4. SUBCONTRACTORS**

The CONTRACTOR may use subcontractors to perform work only if a subcontractor and the subcontractor's work is identified in the Contract Scope of Work and Budget. CONTRACTOR will

## **SPECIAL TERMS AND CONDITIONS**

document work performed by any SUBCONTRACTOR as required under the Scope of Work and when submitting invoices.

### **5. ORDER OF PRECEDENCE**

In the event of an inconsistency in this Contract, the inconsistency shall be resolved by giving precedence in the following order: The order of precedence for terms and conditions under categories B through E is subject to the proviso that when a Contract term or condition appears in more than one Contract section, the more specific Contract term or condition shall control if the different provisions cannot be harmonized.

- A. Applicable federal and state of Washington statutes and regulations
- B. Special Terms and Conditions
- C. General Terms and Conditions
- D. Attachment A – Scope of Work
- E. Attachment B – Budget

## GENERAL TERMS AND CONDITIONS

### 1. **DEFINITIONS**

As used throughout this Contract, the following terms shall have the meaning set forth below:

- A. "Representative" shall mean the person designated by each party as its agent for Contract management and communications with the other party—identified individually on the Contract Face Sheet and referred to respectively as COMMISSION Representative and CONTRACTOR Representative.
- B. "COMMISSION" means the Washington Tree Fruit Research Commission.
- C. "Contract" means the entire written agreement between COMMISSION and the CONTRACTOR, including the Attachments and any documents, or materials incorporated by reference. E-mail or Facsimile transmission of a signed copy of this Contract shall be the same as delivery of an original.
- D. "CONTRACTOR" shall mean the entity identified on the face sheet performing service(s) under this Contract, and shall include all employees and agents of the CONTRACTOR.
- E. "Personal Information" shall mean information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers, and any financial identifiers.
- F. "State" shall mean the state of Washington.
- G. "SUBCONTRACTOR" shall mean one not in the employment of the CONTRACTOR, who may perform all or part of those services under this Contract under a separate contract with the CONTRACTOR subject to prior approval by the COMMISSION which may be granted or denied in the sole discretion of the COMMISSION. At time of execution of the Contract, any SUBCONTRACTOR must be identified in the Scope of Work and Budget Attachments. Subsequent changes involving any subcontractor require a Contract Amendment. The term "SUBCONTRACTOR" means SUBCONTRACTOR(s) in any tier.

### 2. **ALLOWABLE COSTS**

Costs allowable under this Contract are actual expenditures conforming to Contract terms and conditions, including the Scope of Work and Budget.

### 3. **ALL WRITINGS CONTAINED HEREIN**

This Contract contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto.

### 4. **AMENDMENTS**

This Contract may be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

### **ASSIGNMENT**

Neither this Contract, nor any claim arising under this Contract, shall be transferred or assigned by the CONTRACTOR without prior written consent of COMMISSION.

### 5. **ATTORNEYS' FEES**

Unless expressly permitted under another provision of the Contract, in the event of litigation or other action brought to enforce Contract terms, each party agrees to bear its own attorneys fees and costs.

### 6. **CONFIDENTIALITY/SAFEGUARDING OF INFORMATION**

- A. "Confidential Information" as used in this section includes:
  - 1. All material provided to the CONTRACTOR by COMMISSION that is designated as "confidential" by COMMISSION;

## GENERAL TERMS AND CONDITIONS

2. All material provided or produced by the CONTRACTOR that is designated as “Confidential” by COMMISSION; and
  3. All personal information in the possession of the CONTRACTOR that may not be disclosed under state or federal law. “Personal information” includes but is not limited to information related to a person’s name, health, finances, education, business, use of government services, addresses, telephone numbers, social security number, driver’s license number and other identifying numbers, and “Protected Health Information” under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA).
- B.** The CONTRACTOR shall comply with all state and federal laws related to the use, sharing, transfer, sale, or disclosure of Confidential Information. The CONTRACTOR shall use Confidential Information solely for the purposes of this Contract and shall not use, share, transfer, sell or disclose any Confidential Information to any third party except with the prior written consent of COMMISSION or as may be required by law. The CONTRACTOR shall take all necessary steps to assure that Confidential Information is safeguarded to prevent unauthorized use, sharing, transfer, sale or disclosure of Confidential Information or violation of any state or federal laws related thereto. Upon request, the CONTRACTOR shall provide COMMISSION with its policies and procedures on confidentiality. The COMMISSION may require changes to such policies and procedures as they apply to this Contract whenever COMMISSION reasonably determines that changes are necessary to prevent unauthorized disclosures. The CONTRACTOR shall make the changes within the time period specified by COMMISSION. Upon request, the CONTRACTOR shall immediately return to COMMISSION any Confidential Information that COMMISSION reasonably determines has not been adequately protected by the CONTRACTOR against unauthorized disclosure.
- C.** Unauthorized Use or Disclosure. The CONTRACTOR shall notify COMMISSION within five (5) working days of any unauthorized use or disclosure of any confidential information, and shall take necessary steps to mitigate the harmful effects of such use or disclosure.
- D.** Public Records. Upon receipt of a public records request, the COMMISSION’S disclosure, redacting, or withholding of records, including records containing Confidential Information maintained, sent, or received by the COMMISSION under this Contract are subject the Washington State Public Records Act, RCW 42.56. To the extent consistent with RCW 42.56, the COMMISSION will maintain the confidentiality of all records marked as “Confidential Information” or comparable marking. If the COMMISSION receives a public records request that would include records identified as “Confidential Information” by CONTRACTOR, the COMMISSION will notify CONTRACTOR and the date that any such records will be released to the requester unless the CONTRACTOR obtains a court order enjoining that disclosure. If CONTRACTOR fails to obtain the court order enjoining disclosure, the COMMISSION will release the requested information no earlier than the date specified.
- E.** Disclosure, redacting, or withholding records, including records containing Confidential Information maintained, sent, or received by the COMMISSION under this Contract are subject the Washington State Public Records Act, RCW 42.56.

### **11. CONFORMANCE**

If any provision of this contract violates any statute or rule of law of the state of Washington, it is considered modified to conform to that statute or rule of law.

### **12. CONFLICT OF INTEREST**

The COMMISSION may, in its sole discretion, by written notice to the CONTRACTOR terminate this contract if it is found after due notice and examination by COMMISSION that CONTRACTOR has violated the Ethics in Public Service Act, Chapters 42.52 RCW, the Code of Ethics for Municipal Officers, 42.23 RCW; or any similar statute applicable to the CONTRACTOR in the procurement of, or performance under this contract.

### **13. COPYRIGHT AND INTELLECTUAL PROPERTY**

## GENERAL TERMS AND CONDITIONS

As between the parties, unless otherwise provided in the Scope of Work, all intellectual property "materials" produced or developed by CONTRACTOR under this Contract are considered the property of the CONTRACTOR..

"Materials" means all items in any format and includes, but is not limited to, data, reports, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions. "Ownership" includes the right to copyright, patent, register and the ability to transfer these rights.

The CONTRACTOR shall exert all reasonable effort to advise COMMISSION, at the time of delivery of any Materials furnished under this Contract, of all known or potential invasions of privacy contained therein and of any portion of such document which was not produced in the performance of this Contract. The CONTRACTOR shall provide COMMISSION with prompt written notice of each notice or claim of infringement received by the CONTRACTOR with respect to any Materials delivered or produced under this Contract.

### **14. DISALLOWED COSTS**

The CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its SUBCONTRACTORS.

### **15. DISPUTES**

Except as otherwise provided in this Contract, when a dispute arises between the parties and it cannot be resolved by direct negotiation, the parties may agree to any form of binding or non-binding alternative dispute resolution (ADR). Such ADR may, by agreement, be conducted before or after either party commences litigation to resolve the dispute consistent with Section 17, "Governing Law and Venue."

### **16. DUPLICATE PAYMENT**

The CONTRACTOR certifies that work to be performed under this contract does not duplicate any work to be charged against any other contract, subcontract, or other source.

### **17. GOVERNING LAW AND VENUE**

This Contract shall be construed and interpreted in accordance with the laws of the state of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

### **18. INSURANCE**

The intent of the required insurance is to protect the COMMISSION should there be any claims, suits, actions, costs, damages or expenses arising from any loss, or negligent or intentional act or omission of the CONTRACTOR or SUBCONTRACTOR, or agents of either, while performing under the terms of this Contract. In the alternative, the CONTRACTOR may meet the requirements for insurance by membership in an insurance pool subject to review and approval of the coverage by the COMMISSION.

The insurance required shall be issued by an insurance company authorized to do business within the state of Washington. Except for Professional Liability or Errors and Omissions Insurance, the insurance shall name the state of Washington, its agents, officers, and employees as additional insureds under the insurance policy. All policies shall be primary to any other valid and collectable insurance. The CONTRACTOR shall instruct the insurers to give the COMMISSION thirty (30) calendar days advance notice of any insurance cancellation, non-renewal or modification.

The CONTRACTOR shall submit to the COMMISSION within fifteen (15) calendar days of the Contract start date, a certificate of insurance which outlines the coverage and limits defined in this insurance section. During the term of the Contract, the CONTRACTOR shall submit renewal certificates not less than thirty (30) calendar days prior to expiration of each policy required under this section.

The CONTRACTOR shall provide insurance coverage that shall be maintained in full force and effect during the term of this Contract, as follows:

## GENERAL TERMS AND CONDITIONS

**Commercial General Liability Insurance Policy.** Provide a Commercial General Liability Insurance Policy, including contractual liability, written on an occurrence basis, in adequate quantity to protect against legal liability arising out of contract activity but no less than \$1,000,000 per occurrence. Additionally, the CONTRACTOR is responsible for ensuring that any SUBCONTRACTORS provide adequate insurance coverage for the activities arising out of subcontracts.

**Automobile Liability.** In the event that performance pursuant to this Contract involves the use of vehicles, owned or operated by the CONTRACTOR or its SUBCONTRACTOR, automobile liability insurance shall be required. The minimum limit for automobile liability is \$1,000,000 per occurrence, using a Combined Single Limit for bodily injury and property damage.

**Professional Liability, Errors and Omissions Insurance.** The CONTRACTOR shall maintain Professional Liability or Errors and Omissions Insurance. The CONTRACTOR shall maintain minimum limits of no less than \$1,000,000 per occurrence to cover all activities by the CONTRACTOR and licensed staff employed or under contract to the CONTRACTOR. The COMMISSION, its agents, officers, and employees need *not* be named as additional insureds under this policy.

### 18. **INDEMNIFICATION**

CONTRACTOR agrees to defend, indemnify, and hold harmless the COMMISSION for claims arising out of or incident to CONTRACTOR'S or CONTRACTOR'S SUBCONTRACTOR'S acts or omissions in the performance of the Contract. CONTRACTOR'S obligation to defend, indemnify, and hold harmless DOH and the state of Washington shall not be eliminated or reduced by any actual or alleged concurrent negligence of the COMMISSION, including its officers, employees and agents. CONTRACTOR'S obligation to defend, indemnify, and hold harmless DOH and the state of Washington includes any claim by CONTRACTOR'S agents, employees, officers, SUBCONTRACTORS, or SUBCONTRACTORS' employees.

If applicable, the CONTRACTOR waives its immunity under Title 51 RCW to the extent it is required to defend, indemnify, and hold harmless the COMMISSION.

### 19. **INDEPENDENT CAPACITY OF THE CONTRACTOR**

The parties intend that an independent contractor relationship will be created by this Contract. The CONTRACTOR and its employees, agents, or any SUBCONTRACTORS performing under this Contract are not employees or agents of the COMMISSION. Conduct and control of the work will be solely with the CONTRACTOR.

### 20. **INDUSTRIAL INSURANCE COVERAGE**

The CONTRACTOR shall comply with all applicable provisions of Title 51 RCW, "Industrial Insurance", or any equivalent applicable industrial insurance laws applicable to CONTRACTOR.

### 21. **LAWS**

The CONTRACTOR shall comply with all applicable laws, ordinances, codes, regulations and policies of local, state, and federal governments, as now or hereafter amended.

### 22. **LICENSING, ACCREDITATION AND REGISTRATION**

The CONTRACTOR shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements or standards necessary for the performance of this Contract.

### 23. **LIMITATION OF AUTHORITY**

Only each party's Representatives or the Representative's designee (designation to be made in writing prior to action by the designee) shall have the express, implied, or apparent authority to manage performance and communications regarding this Contract. Any Contract amendment must be approved by each party's governing authority with express delegation to the person signing the amendment for that party

## **GENERAL TERMS AND CONDITIONS**

### **24. COMPLIANCE WITH NONDISCRIMINATION LAWS**

During the performance of this Contract, the CONTRACTOR shall comply with all federal, state, and local nondiscrimination laws, regulations and policies, including the Americans with Disabilities Act (ADA), 42 USC § 12101 et seq., and Washington State's Law Against Discrimination, chapter 49.60 RCW. In the event of the CONTRACTOR'S non-compliance or refusal to comply with any nondiscrimination law, regulation or policy, this Contract may be terminated in whole or in part, and the CONTRACTOR may be declared ineligible for further contracts with COMMISSION. The CONTRACTOR will be given a reasonable time in which to cure this noncompliance.

### **25. PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION**

The funds provided under this Contract may not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such funds or for any other approval or concurrence under this Contract, provided that reasonable fees or bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not prohibited if otherwise eligible as Contract costs.

### **26. PUBLICITY**

The CONTRACTOR agrees to identify the COMMISSION as a sponsor in any publication or advertising regarding the research funded under this Contract and, when applicable, to use the name, trademark, or logo provided by the COMMISSION for such purposes.

### **27. RECAPTURE**

In the event that the CONTRACTOR fails to perform this Contract in accordance with state laws, federal laws, and/or the provisions of this Contract, the COMMISSION reserves the right to recapture funds in an amount to compensate COMMISSION for the noncompliance in addition to any other remedies available at law or in equity.

Repayment by the CONTRACTOR of funds under this recapture provision shall occur within the time period specified by COMMISSION. The COMMISSION may recapture such funds from payments due under this Contract.

### **28. RECORDS MAINTENANCE**

The CONTRACTOR shall maintain books, records, documents, data and other evidence relating to this Contract and performance of the Scope of Work, including but not limited to accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended or claimed by CONTRACTOR in the performance of this Contract .

CONTRACTOR shall retain such records for a period of six years following the date of final payment. At no additional cost, these records, including materials generated under the Contract, shall be subject at all reasonable times to inspection, review or audit by COMMISSION, personnel duly authorized by COMMISSION, the Office of the State Auditor, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit related to this Contract is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

### **29. REGISTRATION WITH DEPARTMENT OF REVENUE**

If required by law, the CONTRACTOR shall complete registration with the Washington State Department of Revenue.

### **30. RIGHT OF INSPECTION**



## GENERAL TERMS AND CONDITIONS

At no additional cost all records relating to the CONTRACTOR's performance under this Contract shall be subject at all reasonable times to inspection, review, and audit by COMMISSION, the Office of the State Auditor, and federal and state officials so authorized by law, in order to monitor and evaluate performance, compliance, and quality assurance under this Contract. The CONTRACTOR shall provide access to its facilities for this purpose.

### **31. SAVINGS**

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Contract and prior to normal completion, COMMISSION may suspend or terminate the Contract.

### **32. SEVERABILITY**

The provisions of this contract are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the contract.

### **33. SUBCONTRACTING**

The CONTRACTOR may only subcontract work contemplated under this Contract if it obtains the prior written approval of COMMISSION. Approval of any SUBCONTRACTOR is perfected for any SUBCONTRACTOR identified in the Scope of Work and Budget.

If the COMMISSION approves subcontracting, the CONTRACTOR shall maintain written procedures related to subcontracting, as well as copies of all subcontracts and records related to subcontracts. For cause, COMMISSION in writing may: (a) require the CONTRACTOR to amend its subcontracting procedures as they relate to this Contract; (b) prohibit the CONTRACTOR from subcontracting with a particular person or entity; or (c) require the CONTRACTOR to rescind or amend a subcontract.

Every subcontract shall bind the SUBCONTRACTOR to follow all applicable terms of this Contract. The CONTRACTOR is responsible to COMMISSION if the SUBCONTRACTOR fails to comply with any applicable term or condition of this Contract. The CONTRACTOR shall monitor the activities of the SUBCONTRACTOR to address CONTRACTOR'S obligations under this Contract. In no event will the existence of a subcontract operate to release or reduce the liability of the CONTRACTOR to COMMISSION for any breach in the performance of the CONTRACTOR's duties.

Every subcontract must include a term that the COMMISSION is not liable for claims or damages arising from a SUBCONTRACTOR's acts or omissions in the performance of the subcontract.

### **34. SURVIVAL**

The terms, conditions, and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive.

### **35. TAXES**

All payments accrued on account of payroll taxes, unemployment contributions, the CONTRACTOR's income or gross receipts, any other taxes, insurance or expenses for the CONTRACTOR or its staff shall be the sole responsibility of the CONTRACTOR.

### **36. TERMINATION FOR CAUSE**

If the COMMISSION determines the CONTRACTOR has failed to timely comply with any material term or and condition of this Contract, the COMMISSION may suspend or terminate this Contract. Before suspending or terminating the Contract, the COMMISSION will notify the CONTRACTOR in writing of the need to take corrective action within a stated period stated provided that the COMMISSION determines that corrective action could timely remedy the breach or any anticipatory breach. If CONTRACTOR does not complete the corrective action within the stated period, the Contract may be terminated or suspended by the COMMISSION without further opportunity for corrective action by CONTRACTOR..

## **GENERAL TERMS AND CONDITIONS**

The COMMISSION reserves the right to suspend all or part of the Contract, to withhold further payments, or to prohibit the CONTRACTOR from incurring additional obligations of funds during investigation of any alleged breach and during any pending corrective action by the CONTRACTOR or a decision by COMMISSION to terminate the Contract

The rights and remedies of COMMISSION provided in this contract are not exclusive and are, in addition to any other rights and remedies, provided by law.

### **37. TERMINATION PROCEDURES**

Upon termination of this Contract, the COMMISSION, in addition to any other rights provided in this Contract, may require the CONTRACTOR to deliver to COMMISSION any property specifically produced for or to be acquired by the COMMISSION. The provisions of Section 40, "Treatment of Assets" shall apply to such property transfer.

The COMMISSION shall pay to the CONTRACTOR the agreed upon price, if separately stated, for completed work and services accepted by COMMISSION, and the amount agreed upon by the CONTRACTOR and COMMISSION for (i) completed work and services for which no separate price is stated, (ii) partially completed work and services, (iii) other property or services that are accepted by COMMISSION, and (iv) the protection and preservation of property, unless the termination is for default, in which case the COMMISSION'S Representative shall determine the extent of the liability of COMMISSION. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. The COMMISSION may withhold from any amounts due the CONTRACTOR such sum as the Authorized Representative determines to be necessary to protect COMMISSION against potential loss or liability.

The rights and remedies of COMMISSION provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a notice of termination, and except as otherwise directed by the COMMISSION'S Representative, the CONTRACTOR shall:

1. Stop work under the Contract on the date, and to the extent specified, in the notice.
2. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Contract that is not terminated;
3. If and to the extent directed by the COMMISSION'S Representative, assign to the COMMISSION, all of the rights, title, and interest of the CONTRACTOR under the orders and subcontracts so terminated, in which case COMMISSION has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
4. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the COMMISSION Representative to the extent the COMMISSION Representative may require, which approval or ratification shall be final for all the purposes of this clause;
5. Transfer title to COMMISSION and deliver in the manner, at the times, and to the extent directed by the COMMISSION Representative any property which, if the contract had been completed, would have been required to be furnished to COMMISSION;
6. Complete performance of such part of the work as shall not have been terminated by the COMMISSION Representative; and
7. Take such action as may be necessary, or as the COMMISSION Representative may direct, for the protection and preservation of the property related to this contract, which is in the possession of the CONTRACTOR and in which COMMISSION has or may acquire an interest.

### **38. TREATMENT OF ASSETS**

Title to any property paid for with funds under this Contract shall vest in the party as stipulated in the Scope of Work. In the absence of such express stipulation, any tangible or intellectual property paid for in whole or in part with funds under this Contract will vest in the CONTRACTOR.

## GENERAL TERMS AND CONDITIONS

All reference to the CONTRACTOR under this clause shall also include CONTRACTOR'S employees, agents or SubCONTRACTORS.

### **39. WAIVER**

Express or implied waiver of any default or breach by either party shall not be deemed to be a waiver of any subsequent default or breach.

Scope of Work

Budget